

**BEFORE**

**THE PUBLIC SERVICE COMMISSION OF**

**SOUTH CAROLINA**

**DOCKET NO. 2018-32-C - ORDER NO. 2018-\_\_\_\_\_**

\_\_\_\_\_, 2018

IN RE: Joint Application of Birch Communications, L.L.C. and Birch Telecom of the South, L.L.C. for Approval of Corporate Restructuring	) ORDER APPROVING ) CORPORATE ) RESTRUCTURING ) )
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This matter comes before the Public Service Commission of South Carolina ("Commission") on the Joint Application of Birch Communications, L.L.C. ("Birch") and Birch Telecom of the South, L.L.C. ("Birch Telecom") (collectively, "Joint Applicants") for approval to transfer certain assets from Birch to Birch Telecom and *vice versa*, pursuant to S.C. Code. §§ 58-9-280, 58-9-300, and 58-9-310. The Joint Applicants are described in more detail as follows.

Birch is a Georgia corporation with headquarters at 320 Interstate North Parkway SE, in Atlanta, Georgia (30339). Formerly known as Access Integrated Networks, Inc., Birch was granted authority to provide local and long-distance telecommunications services in South Carolina by Order No. 1999-801, issued November 15, 1999, in Docket No. 1999-323-C. On February 28, 2018, Birch Communications, Inc. notified the Commission that it had converted to a limited liability company and changed its name to Birch Communications, LLC. The Commission amended Birch's certificate accordingly on March 14, 2018. Order No. 2018-173.

Birch Telecom is a Delaware corporation with headquarters at 320 Interstate North Parkway SE, Atlanta, GA 30339. Birch Telecom is authorized by the Commission to provide local exchange and interexchange telecommunications services in South Carolina by Order No. 2000-792 issued September 25, 2000, in Docket No. 2000-265-C. Birch Telecom is a wholly owned

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subsidiary of Birch. Birch Telecom recently converted to a limited liability company (“LLC”) in its home state of Delaware effective December 30, 2017. The Commission amended Birch Telecom’s certificate in Order 2018-174.

The Joint Applicants filed their application on January 24, 2018. The application was supported by the verified prefilled Direct Testimony of Gordon P. Williams, Jr., the Senior Vice President, Secretary and General Counsel to the Joint Applicants. Notice of the application was published on February 9, 2018, as directed by the Commission. The Joint Applicants are represented by Charles L.A. Terreni and the Office of Regulatory Staff is represented by Jeffrey M. Nelson, its Chief Counsel. There are no intervenors in this docket, and the ORS does not oppose this application.

### **FINDINGS OF FACT**

Based on the verified application, and the Direct Testimony of Mr. Williams, the Commission makes the following findings of fact.

1. Birch and Birch Telecom plan to implement an internal corporate reorganization to segregate their residential and single-line business customers from their large business and cloud service customers with Birch Telecom serving the residential and single-line business customers and Birch serving the large business and cloud service customers.

2. To accomplish the internal reorganization, any residential and single-line business customers served by Birch in South Carolina will be assigned to Birch Telecom. Conversely, any large business and cloud service customers served by Birch Telecom in South Carolina will be assigned to Birch.

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3. On November 30, 2017, BCHI Holdings, LLC, Birch, Fusion Telecommunications International, Inc., and Network Billing Systems, LLC filed a joint notice with the Commission regarding a transaction that will cause a material change to the ownership and control of Network Billing Systems, LLC (the “Fusion Transaction”). The internal reorganization will occur concurrently with the Fusion Transaction.

4. Birch Telecom will be spun-off to a newly formed holding company, Lingo Communications, LLC (“Lingo”), which will be owned by the existing owners of Birch and Birch Telecom. The reorganization will be entirely *pro forma* – both prior to and following the Fusion Transaction - as the same Birch shareholders will, at all times, hold a controlling interest in both Birch and Birch Telecom.

5. The Joint Applicants’ service to their customers will not be affected by the proposed transaction. Both companies operate under the “Birch Communications” name, and customers will continue to receive service from “Birch Communications” as they receive service today. Further, Birch Telecom and Birch will file any necessary tariff revisions to incorporate each other’s current services and rates so affected customers will continue to receive the same services they receive with no immediate changes to their service offerings or rates.

6. The Joint Applicants have testified through Mr. Williams that the proposed reorganization furthers the public interest, convenience, and necessity as it will advance economic efficiency by enabling them to expand their businesses and achieve economies of scale. These benefits are expected to strengthen both companies’ ability to expand their service offerings to a broader customer base. The reorganization will facilitate a division of operations, enabling Birch to focus upon delivery of business and cloud services while Birch Telecom will focus on serving

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consumer and smaller business customers. The reorganization also will enable the Joint Applicants to strengthen their competitive position to the benefit of consumers and the telecommunications marketplace in South Carolina. The Commission agrees.

### **CONCLUSIONS OF LAW**

Based on its findings of fact, the Commission concludes, pursuant to S.C. Code Section and S.C. Code Reg. the application is in the public interest and the Joint Applicants may proceed with their Business Reorganization plan.

#### **NOW THEREFORE:**

- I. The Commission approves of the transactions set forth in the application.
- II. The Joint Applicants will file any necessary tariff revisions to ensure their customers continue to receive the same services they currently receive with no immediate changes to their service offerings or rates.

#### **BY ORDER OF THE COMMISSION.**

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Swain E. Whitfield  
Chairman

#### **ATTEST:**

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Comer H. "Randy" Randall  
Vice-Chairman